

A TRIBUTE TO LEWIS H. LARUE

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whole process felt invigorating and fulfilling, especially Bill's blessing for it (for Bill himself was a stern and demanding taskmaster).

I suspect that any work with Lash would produce the same good feelings. I salute him in this year of both of our retirements. Lash LaRue has made the world a better place, through his work, and through his life.

Toni M. Massaro*

For Lash: Who Asks the Right Questions

My first memory of Lash LaRue is of a fiercely intelligent professor who would—I knew—have much to say in whether I would receive an offer to join the Washington and Lee faculty back in 1982. As I have learned in over twenty years of law teaching, every faculty has members who are especially attuned to safeguarding the intellectual verve of the place, and do so with a remarkable ability to address (or, as Toni M. Massaro need be, dress down) each candidate on his or her own merits. Lash is one of these colleagues, and excels at it. I managed to escape his scrutiny then, and still consider this one of Lash's few lapses. My time at Washington and Lee was one of the best of my professional life, so I am grateful Lash winked.

My second vivid memory shows another side of Lash—one I valued every bit as much as his keen intellect and capacity for close questioning and dismantling of shoddy thinking. He sent a personal note to me before I moved to small-town, collegial Lexington—fondly known as "Metrolex"—from urban-tough Chicago. He offered to help me unload my belongings, with the assurance that although his was "not a strong back," he had genuine enthusiasm for my arrival.

Both first impressions proved to be reliable. Lash is always keen on ideas, and always generous with colleagues. Like the Washington and Lee faculty as a whole, Lash demonstrates the best of what a community of scholars can offer: rigorous analysis, deeper inquiry, and genuine concern for others.

Lash was a vital part of my nurturing and "early childhood" as a law professor. He gave me books to read and encouraged me to one day deploy

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what seemed a far-off fantasy at the time—a *sabbatical*—to pursue knowledge for its own sake. He told me that our role as professors is noble, difficult, and truly audacious: we are expected to increase the world's store of knowledge.

When I faltered at the scary threshold of beginning my scholarship in earnest, he said, "Write about what makes you outraged!" When I hesitated at suggesting that the Supreme Court should wholly abandon a course of action because the Court almost surely would reject that suggestion, Lash admonished, "Professors must urge outcomes they believe are correct, not ones they believe will prevail." My office was a few doors down from Lash's—not far enough, thank goodness, to be out of earshot of his distinctive and frequent laugh. Lash sees the humor, the utter inanity, of so many things in life and law.

Lash is also scary smart, and relentless when he gets a whiff of sophistry. I remember a hapless candidate for a position on the faculty who delivered a talk on the First Amendment. The candidate spoke after a faculty lunch at which iced tea and sliced lemons were served. Lash listened intently to the remarks, then began to frown and shake his head vigorously in disagreement with the thesis. Just before he raised his hand to speak, he bit down hard into a lemon slice and grimaced. With that taste in his mouth, he delivered a very sharp and precise stab at the candidate's argument—though not at the candidate. I watched this performance as any young professor would—aflood in miserable empathy for the speaker. But I also learned, at the poor candidate's expense, the importance of nondefensive venting of arguments in order to improve them *before* the ideas hit print. I saw that Lash could teach me a great deal about lapses in my own writing and thinking. It would be a bracing experience to be sure: he would not pull his punches, or skim a piece in order to deliver polite but meaningless praise. But I would be a better writer for it.

I have a third, vivid memory of Lash that requires some backdrop for readers who may not know much about Washington and Lee's physical setting. The town of Lexington and the Washington and Lee University community are, in my memory, inextricably bound. "Town and gown" are entwined there in ways I have never seen elsewhere in legal education. One manifestation of this was remarkably cross-disciplinary and cross-professional turnouts for lectures and other events of public interest. This makes for especially rich opportunities to make friends beyond the academy, friends who enrich faculty lives immeasurably and round out one's life as a law professor.

Another feature of Lexington that fostered close relations was the relative absence of a restaurant scene (unless one counts "Spanky's" or the "Keydet General" as fine dining). When I was there, the faculty, to a person, cooked and entertained each other, often and well. I believe I had dinner in the homes

of each of my colleagues at one point during my time there. How many professors can say the same? Likewise, we entertained our out-of-town visitors in our homes. Sometimes, we combined our efforts and cooked together for our guests. How many teachers learn from colleagues to prepare brussel sprouts by slicing small x's in the stalks?

Communal exchange at Washington and Lee took other forms as well. When the many gardeners on the faculty planted tomatoes, they brought bags of them to school as offerings. We ate them fresh, like apples. We made tomato soup. We made tomato salad. We enjoyed tomatoes in every way possible while the season lasted. How many colleagues grow crops for each other?

Lash is an important link in this marvelous, welcoming chain. I recall in particular a spectacular LaRue family dinner: Lash's crown roast of lamb, his wife and their (then) children, sharing a home cooked feast and an animated conversation about politics, civil rights, and the state of our world. We had a terrific evening that remains in my mind's eye a model of academic warmth and hospitality.

Lash's offerings, of course, are not restricted to food or to Lexington denizens. His scholarship has extended his reach and influence to the whole academy. A dip into Lash's scholarship betrays the scope of this iconoclastic mind. His topics include defamation, federalism, rhetoric, antitrust, legal ethics, literature, the American jury, and problems of proof, among others. In each piece, his take is unique, thought provoking, and fresh.

His many works reveal that the "Law according to Lash" is replete with stories, scoundrels, illogic, myths, and slavish adherence to practices and arguments that cause great harm. Yet the work also betrays Lash's fundamental belief that law and its guardians—judges, lawyers, law professors, and even administrators—can perform great good. He sees poetics there, and shining possibilities. Consider the following exchange, in which Lash responds to my request for advice about how to be a good dean:

As you note, you have responsibility without power. Deans have no power, except over matters janitorial. It is a little known fact. Or perhaps a more accurate statement would be: a dean has no power to do good, but a lot of power to cause harm. In short, the job is the same as being a teacher. One has no power to make students (now faculty) learn. But one can do things that will get in the way of their learning. And every once in a while you can help. But you can't learn it for them, or make them learn.

Well, those are the two big things that I think I know about being a dean. There is a further matter about being a really good dean. You need to ask the question: why aren't we doing what we know that we should do, what we in fact want to do? As you know from being a teacher, asking the

right question is the most important thing that you can do. So what is the right question? I may be wrong, but I think that this is it.

I agree that "this is it." In fact, the cord that binds together all of Lash's contributions is the effort to ask the right question. This is the heartbeat of his teaching, of his writing, and of his life beyond both.

Thank you, Lash, for your uplifting faith that we *do* know what we should do, and need only muster the courage to do it. May we all ask the right questions and face up to the answers. Above all, may the next phase of your life bring you much fulfillment, more time to read and write, and the enjoyment of your abundant passions.

H. Jefferson Powell*

Dear Lash,

If you want to get ahead in the line of work you and I have chosen, there are some pretty clear rules of thumb. Let me restate a few of the most important, perhaps a bit more crudely than is the custom in discussing them with the young, so that it will be clear what my complaint is . . . and I do have a complaint.

First and foremost, publish all the time. Let not the sun go down, or at least not more than a few months pass, without one (minimally) or more (excellent!) manuscripts crowding the mail boxes of your colleagues, the great and even the modestly important scholars in your field, and of course the law reviews. Put aside all scruples based on ideas such as publishing only when you have something to say or treating scholarship as the product of serious and fair-minded reflection: all such notions are heresy and lead to such abominations as a decision not to publish something you have spent time on, merely because you are not sure it is right. And don't hesitate to say the same thing repeatedly: it is egregiously inefficient, indeed a clear case of economic waste, not to use an idea as many times as the market will bear.

Publish well. I do not mean, of course, that you should only publish real contributions to our understanding of the law (see the previous rule). The point here is that the leading law reviews are where you want to publish

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